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139 Ga. 385, 77 S. E. 388, *overruling* *Glawson v. Southern Bell Tel. & Tel. Co.* (1911) 9 Ga. App. 450, 71 S. E. 747.

TRADE UNIONS—LIABILITY TO SUIT.—The plaintiff brought an action for violation of the Anti-Trust Act against a labor union and others. *Held, inter alia*, the defendant labor union is suable as such. *United Mine Workers of America v. Coronado Coal Co.* (1922) 42 Sup. Ct. 570.

At common law an unincorporated association, having no legal entity, is not suable in its own name. *Pickett v. Walsh* (1906) 192 Mass. 572, 78 N. E. 753; see *Diamond Block Coal Co. v. U. M. W. A.* (1920) 188 Ky. 477, 490, 222 S. W. 1079. The Anti-Trust Law provides, however, that suit may be brought against any "person" violating its provisions. (1890) 26 Stat. 209, U. S. Comp. Stat. (1916) § 8829. "Person" is defined as including any association existing under the laws of any jurisdiction. (1890) 26 Stat. 210, U. S. Comp. Stat. (1916) § 8830. The defendant labor union is clearly an association under the generally accepted legal definition. See *People v. Brander* (1910) 244 Ill. 26, 31, 91 N. E. 59. Trade unions are so firmly established in our economic system and have been so often recognized by other laws passed both for their protection and regulation, that to deny their legal existence seems mere preciosity. The decision in the instant case is well reasoned and although not supported by the weight of authority, does not fail for lack of precedent; *Taff Vale Ry. v. Amalgamated Soc. of Ry. Servants* [1901] A. C. 426; *Hillenbrand v. Trades Council* (1904) 14 Ohio N. P. 628; and a long line of cases where the admission of a union as a party was not questioned; *contra*, *Baskins v. United Mine Workers* (1921) 150 Ark. 398, 234 S. W. 464; *Powers v. Bricklayers Union* (1914) 130 Tenn. 643, 172 S. W. 284. At most it is a procedural question as all the members of the union may be sued collectively or through representative individuals. See *Pickett v. Walsh, supra*, 589-90.

WILLS—LOSS OF ONE DUPLICATE—PRESUMPTION OF REVOCATION.—At the death of the testatrix, who had drawn up her will in duplicate retaining one of the copies and leaving the other with her attorney, only the latter was found, with no evidence as to whether the former had been lost or destroyed. *Held*, probate of the duplicate will denied. *In re McChesney's Will* (Surr. Ct. Rensselaer Co. 1922) 118 Misc. 545, 194 N. Y. Supp. 893.

A will proved to have had existence and traced to the possession of the testator but not found at his death is presumed to have been destroyed *animo revocandi*. *Matter of Kennedy* (1901) 167 N. Y. 163, 60 N. E. 442; see *Snider v. Burks* (1888) 84 Ala. 53, 58, 4 So. 225. The instant case in applying this presumption to the case of duplicate wills is in agreement with what is asserted to be the weight of authority. *In re Walsh's Estate* (1917) 196 Mich. 42, 163 N. W. 70; see *Matter of Pattison* (1912) 78 Misc. 699, 702, 140 N. Y. Supp. 478. There can be no question as to presumption where the duplicate in the hands of the testator is offered for probate, although the other copy is lost. *Snider v. Burks, supra*. It is also clear that when a testator who has executed a will in duplicate destroys one, there is a presumption of revocation. See 1 Jarman, *Wills* (6th ed. 1910) 151. But this presumption may be overcome by evidence of the testator's belief that the will is not revoked. *Matter of Pattison, supra*; *Managle v. Parker* (1908) 75 N. H. 139, 71 Atl. 637. The question of the effect of the loss of the duplicate retained by the testator seems to have come up for decision in only one jurisdiction. *In re Walsh's Estate, supra*. The Michigan court there quoted Jarman in support of its position that the presumption of revocation applied equally to a duplicate will. See *In re Walsh's Estate, supra*, 67. Though the passage cited from Jarman has reference to the legal consequences of the actual

destruction of one copy by the testator, the result reached seems to be sound. The argument offered against this position is also stated in that case: "The reason why a will is made in duplicate is that if one becomes lost, mislaid, or destroyed, the other will be found and put into effect." See *In re Walsh's Estate*, *supra*, 67. But this doctrine would deprive the testator of the power of destroying his will in private, without requesting the depositary to destroy the other copy. It would also fail to carry out the intent of the testator, if he did not remember that there were other copies. It must be conceded that the average testator regards the will in his possession as important, while he is usually ignorant of the effect of copies. On these grounds, the instant case represents the better doctrine, since it establishes a uniform presumption and deprives the testator of no powers.

WORKMEN'S COMPENSATION—PARTNERSHIP—PARTNER AS EMPLOYEE.—The claimant, working for a co-partnership of which he was a member for a daily wage, was injured in the course of its drilling operations. The four partners were the only employees of the partnership. *Held*, the claimant is an employee within the provisions of the Compensation Act. *Ohio Drilling Co. et al. v. State Industrial Commission et al.* (Okla. 1922) 207 Pac. 314.

Upon similar facts in an earlier Oklahoma case, compensation had been denied. *Kirby v. New Model Laundry, Aetna Life Ins. Co., Ins. Carrier* (1916) 1 Okla. Ind. Comm. Rep. 62. An opposite conclusion had likewise been reached in England. *Ellis v. Ellis & Co. L. R.* [1905] 1 K. B. 324. In a Scotch case, compensation was awarded to a claimant, owner of shares in a vessel of which he was master, for injuries sustained while employed thereon, the court rightly distinguishing the joint owner who did not share in the profits from a partner. *Carswell v. Sharpe* (1910) 3 B. W. C. C. 552, 47 Scottish Law Rep. 335. The common law meaning of the word "employee" is to be adopted where the Workmen's Compensation Statutes do not indicate otherwise. See *Kackel v. Serviss* (1917) 180 App. Div. 54, 56; 167 N. Y. Supp. 348. It has been repeatedly held in the case of a corporation that an officer-employee or a shareholder-employee is entitled to compensation for injury. *Dewey v. Dewey Fuel Co.* (1920) 210 Mich. 370, 178 N. W. 36; *Skouitchie v. Chic Cloak & Suit Co.* (1920) 230 N. Y. 296, 130 N. E. 299; see *Beckmann v. Oelerich & Son* (1916) 174 App. Div. 353, 358, 160 N. Y. Supp. 791; (1920) 20 COLUMBIA LAW REV. 799. The court in the instant case may have been influenced by this conception. But the common law considers a corporation a separate entity, while it recognizes only the individual members of a partnership. See 1 Morawetz, *A Treatise on the Law of Private Corporations* (2d ed. 1886) 8. Thus there cannot be an employer and an employee in the case of a partner who works for his partnership, for then he would employ himself. See *Ellis v. Ellis*, *supra*, 328. Unless the instant case is to be taken as indicating a tendency on the part of the Oklahoma court to depart from common law rules with reference to a partnership, it cannot be sustained.